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June 27, 1961  
Opinion No. 61-47

REQUESTED BY: Honorable George M. Ireland  
Yavapai County Attorney

OPINION BY: ROBERT W. PICKRELL  
The Attorney General

- QUESTIONS: 1. May a school district pay the travel expenses of school board members to the National School Board Association meeting?
2. May a school district pay the travel expenses for a teacher to the National Education Association Convention?

- CONCLUSIONS: 1. Yes, if the school board determines that the travel is for a school purpose and the school budgetary provisions are satisfied.
2. Yes, but only if the teachers were traveling as duly authorized representatives pursuant to §15-442, A.R.S., as amended, or as further qualified in body of opinion under A.R.S. §38-621 et seq.

This opinion arose out of request submitted to the Yavapai County Attorney from the Yavapai County School Superintendent. The questions were then submitted to the Attorney General under §15-122(B), A.R.S., as amended. The opinion of this office follows:

This office in Opinion No. 58-101 discussed under what circumstances school district superintendents, principals and teachers could be reimbursed or recover expenses for travel. The opinion included an interpretation of the then paragraph A-5 of §15-444, A.R.S., which provided reasonable travel expenses to a superintendent or principal when traveling on "school business." Since that time the Legislature has repealed that provision and has enacted sub-section B-5 of §15-442, which is recited in toto:

"B. The board may:

\* \* \*

5. Permit a superintendent, principal or their representatives to travel for a school purpose, as determined by a majority vote of the board. By unanimous vote the board may permit members of the board to travel for a school purpose. Any expenditure for travel and subsistence shall be as provided under the terms of title 38, chapter 4, article 2, and shall be a charge against the budgeted school district funds." (Emphasis supplied)

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The recent statutory enactment has broadened the power of a school district to permit travel to the superintendent, principal or their representatives, and school board members. The scope of travel has also been extended by our Legislature from "school business" to "school purpose." The term "school purpose" is incapable of being precisely defined. If the school board decides that the travel is for a "school purpose," then its discretion will not be disturbed unless it has acted unreasonably and capriciously. Each situation must be decided as a separate factual circumstance. If the school board has, by a unanimous vote, authorized travel of school board members to a National School Board Association meeting and travel expenditures have been properly provided for in the school budget, then the members of the school board attending the meeting would be entitled to reimbursement for traveling expenses. Lee v. Coleman, 63 Ariz. 45, 159 P.2d 603, and City of Glendale v. White, 67 Ariz. 231, 194 P.2d 435, have broadly defined "public purpose" and the discretionary power of such boards as these to act thereunder. Also see Ward v. Frohmiller, 55 Ariz. 202, 160 P.2d 167.

With reference to your other question as to the legality of the expenditures by a school district for payment of travel expenses for attendance of teachers to the National Education Association Convention, sub-section B-5 of §15-442, A.R.S., supra, would only be applicable to teachers if they were traveling in the capacity as representatives of the superintendent or principal, or both. Therefore, the test would be whether the school board authorized the teachers to travel as representatives of either the principal or superintendent, or both, whether the particular purpose was determined by the board to be a "school purpose," and whether travel expenditures were properly included within the school budget. If all the prescribed tests have been met, then the teachers are also entitled to reimbursement for travel expenditures. There is no blanket grant of authority to allow teachers to travel unless as representatives as mentioned above.

If the teachers were not traveling as representatives as stated in sub-section B of §15-442, A.R.S., then their entitlement to reimbursement for travel expenditures would be governed by the general travel expenditures' statutes as contained in Article 2 of Chapter 4, Title 38 of the Arizona Revised Statutes. A.R.S. §§38-621 and 38-622 are recited in full:

"§38-621. Persons eligible to receive travel expenses  
The provisions of this article shall apply to every public officer, deputy or employee of the state, or of any department, institution or agency thereof, and to a member of any board, commission or other agency of the state when traveling on necessary public business away from his designated post of duty and when issued a proper travel order.

"§38-622. Authorization for travel  
A. When the official duties of a public officer or employee require him to travel from his designated post of duty, he shall be allowed expenses therefor.

Honorable George M. Ireland  
Yavapai County Attorney

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B. Such expenses shall be authorized by travel orders signed by the head of the department or agency, or by a person to whom such authority has been properly delegated."

In Opinion No. 58-101 this office stated that §38-621 et seq. provided under what circumstances teachers as employees could travel, namely, it being necessary public business and the duties of the employee require the travel (§§38-621 and 38-622, A.R.S.), which are more stringent and restrictive than the provisions of sub-section B-5 of §15-442, A.R.S., supra.

It is our opinion that under these conditions the teachers would not normally be authorized to travel to such a convention because such travel would not normally be deemed public business nor within the prescribable duties of a teacher. The ordinary duties of a teacher would not require travel for this particular purpose.

We must point out, however, that the school board in authorizing travel to such a convention to a teacher under §§38-621 and 38-622, A.R.S., could find that such travel in a specific instance would be for necessary public business. If the funds are properly budgeted, the school board's discretion as to the necessity of the travel and as to the necessity of the school business would be sustained as being within the scope of the school board's authority. The test of the educational advancement of the youth of the district applied to this class as set forth in Opinion No. 58-101 is more narrow and limited than that of a public purpose. The discretion of the board is subject to judicial review, and the board in each case should bear this carefully in mind.

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61-47